



**PROPOSED RULE MAKING  
(RCW 34.05.320)**

**CR-102 (7/22/01)**  
**Do NOT use for expedited  
rule making**

Agency: Public Disclosure Commission

- ☒ Preproposal Statement of Inquiry was filed as WSR 02-04-049 ; or  
☐ Expedited Rule Making -- Proposed notice was filed as WSR \_\_\_\_\_; or  
☐ Proposal is exempt under RCW 34.05.310(4).

- ☒ Original Notice  
☐ Supplemental Notice  
to WSR \_\_\_\_\_  
☐ Continuance of WSR \_\_\_\_\_

(a) Title of rule: (Describe Subject) Title 390 WAC -- Rules relating to independent expenditures, sample ballots and slate cards, reports filed by nonreporting committees, exempt activities and the definition of Caucus of the State Legislature.

**Purpose:**

To clarify and implement changes to RCW 42.17 and to simplify and streamline the campaign reporting process for candidates and political committees.

Other identifying information:

(b) Statutory authority for adoption: RCW 42.17.370(1)

Statute being implemented: RCW 42.17.103 and .370(1)

(c) Summary: The proposed rule changes would repeal one rule, amend the form and reporting requirements for nonreporting committees, implement RCW 42.17.103, clarify definitions of exempt activities and sample ballots and slate cards, and simplify reporting of independent expenditure political advertising.

Reasons supporting proposal: The proposed new rule and rule amendments conform to statutory changes under RCW 42.17.103, clarify requirements of nonreporting committees, provide guidance to political party committees on the use of exempt funds, and define "top five contributors" for the purpose of political advertising by independent expenditure committees.

(d) Name of Agency Personnel Responsible for:	Office Location	Telephone
1. Drafting..... Doug Ellis	PDC 711 Capitol Way, Rm 206, Olympia	(360) 664-2735
2. Implementation.... Doug Ellis	PDC 711 Capitol Way, Rm 206, Olympia	(360) 664-2735
3. Enforcement..... Phil Stutzman	PDC 711 Capitol Way, Rm 206, Olympia	(360) 664-8853

(e) Name of proponent (person or organization): Public Disclosure Commission

- ☐ Private  
☐ Public  
☒ Governmental

(f) Agency comments or recommendations, if any, as to statutory language, implementation, enforcement and fiscal matters:  
None

(g) Is rule necessary because of:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	If yes, ATTACH COPY OF TEXT Citation:
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	

(h) HEARING LOCATION:

Commission Hearing Room  
Evergreen Plaza Building  
711 Capitol Way, Room 206  
Olympia, WA

Date: May 21, 2002 Time: 9:00 a.m.

Assistance for persons with disabilities: Contact  
Ruthann Bryant by Telephone

TDD ( ) \_\_\_\_\_ or (360) 753-1111

NAME (TYPE OR PRINT)

Susan Harris

SIGNATURE

TITLE

Assistant Director

DATE

4/16/02

Submit written comments to:

Doug Ellis (dellis@pdc.wa.gov)  
Public Disclosure Commission  
PO Box 40908  
Olympia, WA 98504-0908  
FAX (360) 753-1112 By (date) May 17, 2002

DATE OF INTENDED ADOPTION: May 21, 2002

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**APR 17 2002**

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TIME 02-09-080 PM

WSR

(COMPLETE REVERSE SIDE)

(j) Short explanation of rule, its purpose, and anticipated effects:

The proposed rule changes would conform with statutory changes under RCW 42.17.103 which requires the reporting of independent expenditures within 24 hours of first being published or presented to the public during the 21 days before an election and would also specify the requirements and the kinds of committees that file PDC form C-5. The rule amendments define "Top Five Contributors" under RCW 42.17.510(2) and allow political committees to identify the top five contributors giving to the committee to underwrite political advertising for a specific independent expenditure. The definition of caucus of the state legislature is repealed.

The proposed rule changes also references the Washington State Supreme Court's decision regarding issue advocacy and the use of exempt funds, allows generic get-out-the-vote activity, regardless of the number of candidates benefited, to be funded with exempt contributions, and clarifies that at least three candidates must be listed on sample ballots and slate cards and that the distribution of sample ballots and slate cards must be within a geographical area where voters are eligible to vote for at least three candidates listed.

The proposed rule changes provide guidance and clarification to candidates and political committees on current statutory requirements.

Does proposal change existing rules? ☒ YES ☐ NO

If yes, describe changes:

The proposed changes clarify, simplify and streamline the campaign reporting process for candidates and political committees.

(k) Has a small business economic impact statement been prepared under chapter 19.85 RCW?

☐ Yes. Attach copy of small business economic impact statement.

A copy of the statement may be obtained by writing to:

telephoning: (     )

faxing: (     )

☒ No. Explain why no statement was prepared

The implementation of these rules does not impact small businesses.

(l) Does RCW 34.05.328 apply to this rule adoption? ☐ Yes ☒ No

Please explain:

The PDC is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date JARRC has not made section 201 applicable to this rule adoption.

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

**WAC 390-17-060 Exempt activities--Definitions, reporting.**

(1) (a) "Exempt contributions" are contributions made to a political committee which are earmarked for exempt activities as described in RCW 42.17.640 (14) (a) and (b). Such contributions are required to be reported under RCW 42.17.090, are subject to the restrictions in RCW 42.17.105(8), but are not subject to the contribution limits in RCW 42.17.640. Any written solicitation for exempt contributions must be so designated. Suggested designations are "not for individual candidates" or "for exempt activities."

(b) Contributions made to a caucus (~~((of the state legislature))~~) political committee, to a candidate or candidate's authorized committee which are earmarked for voter registration, absentee ballot information, get-out-the-vote campaigns, sample ballots are presumed to be for the purpose of promoting individual candidates and are subject to the contribution limits in RCW 42.17.640.

(c) Contributions made to a caucus (~~((of the state legislature))~~) political committee, to a candidate or candidate's authorized committee which are earmarked for internal organization expenditures or fundraising are presumed to be with direct association with individual candidates and are subject to the contribution limits in RCW 42.17.640.

(2) "Exempt contributions account" is the separate bank account into which only exempt contributions are deposited and out of which only expenditures for exempt activities shall be made.

(3) "Exempt activities" are those activities (~~((described))~~) referenced in RCW 42.17.640(14) ((, expenditures for which are exempt from the contribution limits of RCW 42.17.640. However, only those activities described in RCW 42.17.640(14) as further defined in subsections (4) and (5) of this rule)) as further clarified by subsections (4), (5), (6), and (7) of this section and by the Washington state supreme court's decision regarding issue advocacy in Washington State Republican Party v. Washington State Public Disclosure Commission et al., 141 Wn.2d 245, 4 P.3d 808 (2000). Only exempt activities are eligible for payment with exempt contributions.

(4) (a) (~~((If activities described in RCW 42.17.640 (14) (a) promote clearly identified candidate(s), the activities are a contribution to those candidate(s). Expenditures for these activities may not be made with exempt contributions. If more than one clearly identified candidate is promoted, the amount expended shall be allocated proportionally among those candidates. The amount expended for such activities shall be reported as a contribution to that candidate(s). Candidate(s) shall be notified~~

~~in writing of the contribution within five business days of the expenditure.))~~ Except as permitted by WAC 390-17-030, Sample ballots and slate cards, activities referenced in RCW 42.17.640 (14)(a) that promote or constitute political advertising for one or more clearly identified candidates do not qualify as exempt activities.

(b) A candidate is deemed to be clearly identified if ~~((7))~~ the name of the candidate is used ~~((7))~~ a photograph or ~~((drawing))~~ likeness of the candidate appears ~~((7))~~ or the identity of the candidate is apparent by unambiguous reference.

~~((c) An activity that benefits or opposes fewer than three individual candidates shall be presumed to be for the purpose of promoting individual candidates whether or not they are clearly identified. Such an activity does not constitute a contribution to any candidate who is not clearly identified, but the activity shall not be paid with exempt funds.))~~

(5) Activities referenced in RCW 42.17.640 (14)(a) that do not promote, or constitute political advertising for, one or more clearly identified candidates qualify as exempt activities. For example, get-out-the-vote telephone bank activity that only encourages persons called to "vote republican" or "vote democratic" in the upcoming election may be paid for with exempt contributions regardless of the number of candidates who are benefited by this message.

(6)(a) "Internal organization expenditures" ((described)) referenced in RCW 42.17.640 (14)(b) are expenditures for organization purposes, including legal and accounting services, rental and purchase of equipment and office space, utilities and telephones, postage and printing of newsletters for the organization's members or contributors or staff when engaged in organizational activities such as those previously listed, all without direct association with individual candidates.

(b) "Fundraising expenditures" ~~((described))~~ referenced in RCW 42.17.640 (14)(b) are expenditures for fundraising purposes, including ~~((7))~~ facilities for fundraisers, consumables furnished at the event and the cost of holding social events and party conventions, all without direct association with individual candidates.

(c) If expenditures made pursuant to subsections (a) and (b) above are made in direct association with individual candidates, they shall not be paid with exempt contributions.

~~((67))~~ (7) For purposes of RCW 42.17.640 (14)(a) and this section, activities that oppose one or more clearly identified candidates are presumed to promote the opponent(s) of the candidate(s) opposed.